

STATE OF MICHIGAN  
COURT OF APPEALS

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VLAKO, INC.,

Plaintiff,

and

DIMITRIOS BELAVILAS and MARIA  
BELAVILAS,

Plaintiffs-Appellants,

v

KOSTAS LAGOUDAKIS and EVDOXIA  
KARVALAS,

Defendants-Appellees.

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UNPUBLISHED  
February 22, 2007

No. 271369  
Branch Circuit Court  
LC No. 04-010640-CZ

Before: Meter, P.J., and O'Connell and Davis, JJ.

PER CURIAM.

Plaintiffs Dimitrios and Maria Belavilas appeal as of right from a circuit court order granting defendants' motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs obtained a substantial money judgment against defendants. Dimitrios Belavilas and Kostas Lagoudakis orally agreed that in exchange for a release discharging defendants from any obligations under the judgment, Lagoudakis would pay plaintiffs \$100,000 over two years. Plaintiffs executed the release and Lagoudakis made partial payment. Plaintiffs filed this action to enforce the oral agreement. The trial court dismissed the action, concluding that the claim was barred by the statute of frauds.

A trial court's ruling regarding a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). Whether the statute of frauds applies to bar an action is a question of law that is also reviewed de novo on appeal. *In re Handelsman*, 266 Mich App 433, 435; 702 NW2d 641 (2005).

"An agreement that, by its terms, is not to be performed within 1 year from the making of the agreement" is void unless the agreement or some note or memorandum of the agreement "is

in writing and signed with an authorized signature by the party to be charged with the agreement . . . .” MCL 566.132(1)(a).

The parties agree that the oral agreement required that Lagoudakis pay \$100,000 in two years in monthly installments. Therefore, by its terms, it comes within the statute of frauds. *Ordon v Johnson*, 346 Mich 38, 47; 77 NW2d 377 (1956) (recognizing that an oral agreement for the payment of money that, by its terms, is to be paid more than one year after its making is within the statute of frauds). Further, the fact that Lagoudakis partially performed the agreement does not “negate the statute’s writing or signature requirements.” See *Zander v Ogihara Corp*, 213 Mich App 438, 445; 540 NW2d 702 (1995).

It has been recognized that

if there is any possibility that an oral contract is capable of being completed within a year, it is not within the statute of frauds, even though it is clear that the parties may have intended and thought it probable that it would extend over a longer period and even though it does so extend. [*Drummey v Henry*, 115 Mich App 107, 111; 320 NW2d 309 (1982).]

Plaintiffs contend that the oral agreement falls within this exception. We disagree. It is not enough that one can imagine some turn of events whereby the contract could be fulfilled within one year. Rather, the terms of the contract must show that it is capable of being performed within one year. See, generally, *Southwell v Parker Plow Co*, 234 Mich 292, 293; 207 NW 872 (1926), and *Epstean v Mintz*, 226 Mich 660, 667; 198 NW 225 (1924). By its terms, the parties’ agreement was to be performed over *two years’* time, and there was nothing in the terms to indicate that it could be performed within one year (e.g., pay \$100,000 in two years or less or pay \$100,000 in two years or on demand). Because the agreement, by its terms, was not to be performed within one year of its making and there is no writing signed by either defendant, the trial court did not err in granting defendants’ motion for summary disposition on the basis of the statute of frauds.

Affirmed.

/s/ Patrick M. Meter  
/s/ Peter D. O’Connell  
/s/ Alton T. Davis